

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

REGISTRY OF INTERPRETERS FOR THE DEAF, INC.

and

Case 20-CA-164088

PACIFIC MEDIA WORKERS GUILD, LOCAL 39521

**CHARGING PARTY PACIFIC MEDIA WORKERS GUILD’S MOTION TO WITHDRAW CERTAIN
CROSS-EXCEPTIONS**

On December 29, 2016, ALJ Joel P. Biblowitz issued his decision in this matter. ALJ Biblowitz found that Registry of Interpreters for the Deaf, Inc. (“Respondent”) violated Section 8(a)(1) of the National Labor Relations Act, as amended (“Act”), by maintaining an unlawful antitrust policy and by removing a Section 7-protected Facebook exchange from a forum that it operates and maintains. See ALJD at 9:35-37, 11:20-22, 11:24-26.

Following the filing of exceptions by Registry of Interpreters for the Deaf, Inc. (“Respondent”), on February 9, 2017, Counsel for the Charging Party, Pacific Media Workers Guild (“Guild”) filed limited cross-exceptions to the ALJ’s Decision. In cross-exception 1 and part of cross-exception 2, the Guild argued that the ALJ erred in failing to treat the Respondent’s civility policy separately from Respondent’s antitrust policy.¹

¹ The noted Guild cross-exceptions state, in full:

1. The Guild excepts to the ALJ’s conclusion of law #3. In his decision, the ALJ did not clearly state this conclusion of law. Instead of referencing Respondent’s civility and antitrust policies as both unlawfully restricting the exercise of Section 7 rights, the ALJ stated that the “civility and/or antitrust policies” unlawfully restricted such rights. (emphasis added).
2. The Guild excepts to the ALJ’s conclusion of law #5. In his decision, the ALJ did not clearly state this conclusion of law. First, the ALJ states that the policies at issue “apply to all of [Respondent’s] employees” instead of to all of its *members*. Second, instead of referencing Respondent’s civility and antitrust policies as both unlawfully applying to all members, the ALJ stated that the “civility and/or antitrust policies” unlawfully apply. (emphasis added).

The Guild continues to maintain the portion of its second exception related to the ALJ’s statement that the policies “apply to all of [Respondent’s] employees” instead of to all of its members.

In *The Boeing Co.*, 365 NLRB No. 154, 2017 WL 6403495, at *15-*16 (Dec. 14, 2017), the Board overruled the *Lutheran Heritage* “reasonably construe” test applicable to facially neutral workplace rules and announced a new standard that applies retroactively to all pending cases. In doing so, the Board overruled prior cases finding rules requiring “basic standards of civility in the workplace” to be unlawful. See *id.* at *16 and fn.76. In light of the Board’s current view of rules akin to Respondent’s civility policy placed in issue by the Guild’s cross-exceptions 1 and, in part, 2; and in light of the ALJ’s findings and conclusions that will, in the Guild’s view, provide opportunity for an adequate remedy to Respondent’s unfair labor practices, the Guild hereby requests to, and does, WITHDRAW its cross-exception 1 in full. With regard to cross-exception 2, the Guild hereby WITHDRAWS this cross-exception regarding the civility policy. In sum, the Guild hereby RELINQUISHES the argument, on exceptions, that the maintenance of Respondent’s civility policy, by itself, violates the Act.²

Respectfully Submitted,

/s/ Michael Melick
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Dated: November 13, 2018

² The Guild joins in full Counsel for the General Counsel’s Response to the Board’s Notice to Show Cause, filed by the General Counsel on November 7, 2018, that remand is unnecessary in this case. Due to the withdrawal of both the Guild’s cross-exception #1 and, in part #2, and the General Counsel’s withdrawal of General Counsel’s cross-exceptions 4 and 5, the General Counsel and the Guild are no longer challenging the failure of the ALJ to find that the maintenance of the civility policy, by itself, violated the Act. With the withdrawal of these exceptions, there is no need for additional fact-finding or analysis as a result of the Board’s decision in *The Boeing Co.*, 365 NLRB No. 154 (Dec. 14, 2017), and, thus, remand is unnecessary. The ALJ’s findings and conclusions are consistent with *The Boeing Co. Id.*

Certificate of Service

I hereby attest that I served a copy of Charging Party Pacific Media Workers Guild's Motion to Withdraw Certain Cross Exceptions on counsel for the Respondents, Christopher Michalik, and on counsel for the General Counsel, Richard McPalmer, both via electronic mail, on November 13, 2018.

/s/ Michael Melick
Michael Melick